

Remarks

Reconsideration and allowance of the above identified application is respectfully requested.

In the Office Action dated 2/7/2005 the Examiner rejected all of the pending claims 1-21. The Office Action and the references cited therein have been carefully considered and the above amendment is presented in an effort to advance prosecution of the application.

The Examiner rejected claims 1-9 and 15-21 under 35 USC 102 as anticipated by US Patent 2,732,941 (Deiss). Claims 1-4 were rejected under 35 USC 102 as anticipated by US Patent 3,367,496 (Cockle). Claims 10-14 were rejected under 35 USC 103 as being unpatentable over US Patent 2,732,941 (Deiss) in view of US Patent 4,875,889 (Hagerer).

Applicant has amended claims 1, 5 and 15 to include the limitation that the "panel is flexible and resilient and resiliently flaps back and forth during movement of the shoe". These limitations are set forth in Claim 2, for example, and/or described in paragraphs 19 and 20 of the Specification as originally filed.

The claimed elements in Claims 1, 5 and 15, for example, are not taught or suggested in the cited references, either singly or in combination.

Deiss discloses a rigid baffle arm 41 that pivots on pivot axis 31. The rigid baffle arm of Deiss is not flexible, is not resilient and does not resiliently flap. Cockle discloses a rigid blade 66 that pivots on pivot axis 50. Furthermore, in column 3, lines 55-56, the blade 66 has "a spine for strength and rigidity." Hagerer discloses rigid guide vanes 36 that pivot on hinges 38.

Thus, there is no teaching or suggestion in any of the cited references that "panel is flexible and resilient and resiliently flaps back and forth during movement of the shoe" as now set forth in Claims 1, 5 and 15.

It is therefore believed that the rejection of all the claims, 1-21, should be withdrawn and that this application is in condition for allowance. Such allowance is respectfully requested.

Any fees or charges due as a result of filing of the present communication may be charged against Deposit Account 04-0525.

Respectfully,


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